



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,611	12/29/2000	Steven E. Barile	42390P9914	1292

7590 08/11/2004

Charles A. Mirho
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
7th Floor
124000 Wilshire Boulevard
Los Angeles, CA 90025

EXAMINER

GRAHAM, ANDREW R

ART UNIT	PAPER NUMBER
----------	--------------

2644

DATE MAILED: 08/11/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/752,611

Applicant(s)

BARILE, STEVEN E.

Examiner

Andrew Graham

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings were received on May 20, 2004. These drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "106" has been used to designate both the player function (106) and the speaker (106) in the second computer system (134) in Figure 1. The amendments made to the paragraph on page 8, lines 14-19 refer to the player function as '126'. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are also objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: software (114) found, for example, in the 18th line of page 7. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the

Art Unit: 2644

next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 5-8, 10-12, 15-17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (US 2001/0027396 A1) in view of Fitzpatrick et al (USPN 5675708). Hereafter, "Fitzpatrick et al" will be referred to as "Fitzpatrick".

Sato discloses the audible synthesis an emission of data related to an audio file, relative to the playing of the audio file. The data involves information about the audio file ranging from the title to the type of the music (page 3, para. 0065, and Figure 90). The data is passed through a voice synthesizer (23) to convert the data into an audible output compatible format and the data is output in various forms of in synchronism with the audio file, ranging from the start or end of the audio file to a detected volume condition of the file (para. 0053, 0074, 0075).

Art Unit: 2644

Regarding **Claim 1**, the selection of the relevant audio data with the extraction unit (21) for the voice synthesizer (23) reads on "reading descriptive information about an audio file from meta-data for the audio file" (para. 0061). The synchronism between the playing of the audio file and the audio data from the synthesizer reads on the concept of "concatenating at least a portion of an audio format of the descriptive information". However, the data from the synthesizer (23) is passed through a D/A converter before it is chronologically associated with the audio data of the audio file.

Thus, Sato does not clearly specify:

- that the concatenating of the at least a portion of the audio format of the descriptive information is executed to an audio file

Fitzpatrick discloses a system for converting various forms of multimedia data into audio media. The process involves the inputting of a file or multimedia data stream (col. 3, lines 17-22). The process involves aligning entities from a file on a modified output file (col. 3, lines 66-67 and col. 4, lines 1-6). Entities include text word or phrases that may be converted to a spoken word, as well as audio elements (col. 3, lines 43-46 and 57-61). The entity that is written to output file is the associated digitized audio format of the entity (col. 4, lines 1-2). Fitzpatrick also discloses a process for providing an audio equivalent for data that does not have a standard, discernable

Art Unit: 2644

equivalent (col. 4, lines 8-34). The concept of writing multiple digital audio entities to a file, in view of the effective signal composition of Sato, reads on "concatenating the descriptive at least a portion of an audio format of the descriptive information to the audio file".

To one of ordinary skill in the art at the time the invention was made, it would have been obvious to perform the signal combination of Sato in the digital domain though a method such as the subsequent writing of entities as disclosed by Fitzpatrick. The motivation behind such a modification would have been that such digital processing would have not required hardware capable of efficient processing for the real time production of output.

Regarding **Claim 2**, the voice synthesizer (23) of Sato converts the text information to voice data, which is provided through D/A converters (13a,13b) to be emitted by a loudspeaker, the functions of the synthesizer reading on "converting the descriptive information to the audio format prior to concatenating" (para. 0059). Fitzpatrick also notes certain text data as convertible to a spoken phrase (col. 3, lines 57-61).

Regarding **Claim 5**, one embodiment of Sato involves deriving the data information from the ID3 tag of an MPEG-1 Layer 3 format, which reads on "the audio file comprises the metadata" (para. 0065). Sato also notes that such data can be shown on a device with a text display, and that the disclosed combination may be executed on a device with a display, which provides

Art Unit: 2644

support for retaining such data in the output file produced by Fitzpatrick (para. 0007,0094).

Regarding **Claim 6**, please refer to the like teachings of Claim 1, noting that one of the synchronism options involves outputting the data information at a certain time after the start of the playing of an audio file, which reads on the concept of "mixing" (para. 0072). It is noted herein that the implementation of such a process, in view of the desirable modification proposed above, would involve performing such mixing in the digital domain, again, with the motivation being the elimination of the requirement of components capable of real time processing. Such digital addition or mixing is substantially well known in the art, support for which can be found, for example, in Farhangi et al (USPN 5647008), which has been included with this office action. In the teachings of Fitzpatrick, the resultant signal is written to a new file designated as an output file (col. 3, lines 22-24 and col. 4, lines 1-2 and 63-67). This process of writing of entities reads on "generating a new audio file containing audio data resulting from the mixing".

Regarding **Claim 7**, please refer to the like teachings of Claim 2.

Regarding **Claim 8**, the start reproduction time is one of the synchronization options, which reads on "at least a portion of the audio format of the descriptive information is mixed with audio at the beginning of the audio file" (para. 0070).

Art Unit: 2644

Regarding **Claim 10**, please refer to the like teachings of Claim 5. Regarding **Claim 11**, please refer to the like teachings of Claim 1, noting that Sato discloses the text information read out program as being recorded on a computer readable recording medium (para. 0108). Regarding **Claim 12**, please refer to the like teachings of Claim 2. Regarding **Claim 15**, please refer to the like teachings of Claim 5. Regarding **Claim 16**, please refer to the like teachings of Claim 1, noting that the program is installed on a computer system (Figure 2) from a readable recording medium (para. 0108). Regarding **Claim 17**, please refer to the like teachings of Claim 2. Regarding **Claim 20**, please refer to the like teachings of Claim 5.

3. **Claims 3-4, 9, 13-14, and 18-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato in view of Fitzpatrick as applied above, and further in view of Yumura et al (USPN 5834670). Hereafter, "Yumura et al" will simply be referred to as "Yumura".

As detailed above, Sato discloses a system for selectively including information about an audio file into the audible playing of the audio file. Sato discloses a variety of timing at which the audio file information may be emitted by the speaker (14) in relation to the playing of the audio file. Fitzpatrick discloses the notion of digitally combining audible parts of an input file into a different file.

However, Sato in view of Fitzpatrick does not specify:

- that the audio format of the descriptive information is concatenated to the beginning of the audio file

Yumura discloses a system for audibly presenting information about a song and the user requesting a song in a karaoke system. The audio file name and requester's name are input to a local terminal of the karaoke system with an input device (23). This information, processed by a speech synthesis unit (25) influenced by genre of the song, is output to the speakers during an introduction, interlude, or just before a song (col. 3, lines 13-35). The playing of the song information data reads on "at least a portion of the audio format of the descriptive information is concatenated to the beginning of the audio file".

To one of ordinary skill in the art at the time the invention was made, it would have been obvious to incorporate the emission of the song data before the playing of song as taught by Yumura into the system of Sato in view of Fitzpatrick. The motivation behind such a modification would have been that such an arrangement would have enabled users of the system to directly identify information regarding a song to be played before the actual playing of the song. Playing the song data before the actual song would have left the song to be heard in its original form and prevented any unpleasant sound caused by the overlapping of the music and synthesized voice data.

Regarding **Claim 4**, the system of Yumura involves a main computer source which stores song information and a terminal

Art Unit: 2644

computer source which requests and plays the stored music (col. 2, lines 44-67). Song data is transmitted from the main unit (1) and the terminal (2), and the synthesis of the song title and other information involves the use of data received in this transmission (col. 3, lines 15-18). This aspect of the invention, which improves the quality of the synthesized audio, reads on "the concatenating is performed in response to an operation to transfer the audio file from a first computer system to a second computer system".

Regarding **Claim 9**, please refer to the like teachings of Claim 4. Regarding **Claim 13**, please refer to the like teachings of Claim 3. Regarding **Claim 14**, please refer to the like teachings of Claim 4. Regarding **Claim 18**, please refer to the like teachings of Claim 3. Regarding **Claim 19**, please refer to the like teachings of Claim 4.

Response to Arguments

4. Applicant's arguments, see amendment filed April 23, 2004, with respect to the rejection(s) of claim(s) 1-2, 5-8, 10-12, 15-1, and 20 under 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Fitzpatrick et al (USPN 5675708).

Art Unit: 2644

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Farhangi et al (USPN 5647008) teaches the use of a digital mixer in combining digital audio signals.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Graham whose telephone number is 703-308-6729. The examiner can normally be reached on Monday-Friday, 8:30 AM to 5:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Isen can be reached on (703)305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ag
Andrew Graham
Examiner
A.U. 2644

ag
August 2, 2004

Forester W. Isen
FORESTER W. ISEN
SUPERVISORY PATENT EXAMINER